

SEOW GEK SOO (M.W.) & ANOR.

a

v.

CHIA MUN FOOK & OTHER CASES

HIGH COURT MALAYA, IPOH
 ABDUL MALEK AHMAD J
 [CIVIL SUIT NOS. 541, 542 & 25-408-86]
 1 FEBRUARY 1989

b

TORT: Negligence - Vehicles travelling in opposite direction - Two conflicting versions - Rider of passing m/cycle was collided into by defendant's m/car after colliding into plaintiffs' m/car - Whether rider of m/cycle party to the proceedings - Defendant denies presence of rider of m/cycle at scene of accident - Whether supports contention that defendant was not paying proper attention on the road.

c

TORT: Negligence - Position of vehicles after accident - Whether afford any clue to positions immediately before or at moment of collision - Broken glass pieces from headlamp at point of impact - Glass pieces from windscreen at point after impact - Police report by defendant delayed - Whether time to fabricate version of accident - Defendant not cross-examined on the delay to lodge report - Whether Court to disregard the delay

d

TORT: Earning capacity - Claim for loss of future earnings abandoned - Whether can claim loss of earnings capacity - When does claim for loss of earning capacity arises - Real or substantial risk that person would lose present employment at some time before estimated end of working life.

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The plaintiffs claimed for general and special damages for the injuries and loss suffered by them, being the 1st, 2nd and 3rd plaintiffs arising out of an accident on 30 April 1982 at/about 4 p.m. at/along 49½ milestone, Bidor-Sungkai road, Perak, between the defendant's m/car in which the 1st and 2nd plaintiffs were travelling as passengers in the said m/car and driven by the 3rd plaintiff. The 1st and 2nd plaintiffs were the wife and father-in-law of the 3rd plaintiff respectively. The 1st plaintiff has also filed an action as administratrix of the estate of her son, the 4th plaintiff who was travelling with her as a passenger in the same m/car and who died in the said accident.

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The accident occurred when the defendant who was travelling from the direction of Ipoh towards Kuala Lumpur collided into the 3rd plaintiff's m/car who was travelling in the opposite direction. The defendant had also filed a counter-claim against the 3rd plaintiff for the loss and injuries suffered by him. As regards liability, the Court was faced with conflicting versions where each party had blamed the other for the accident.

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Held:

[1] Although PW1, the rider of the passing m/cycle was a party to the accident, he was not a party to these proceedings between the drivers of the other two vehicles involved in the collision and the Court found no reason to disbelieve him.

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[2] Having seen and heard PW1 giving evidence, the Court in the circumstances accepted the fact that PW1's motor cycle was overtaken by the defendant's motor car, which encroached onto the plaintiffs' side in doing so, before the collision between the motor cars driven by the defendant and the 3rd plaintiff.

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a [3] On the careful considerations of the testimony, photographs and sketch plan, the Court found that it was the defendant who had encroached onto the 3rd plaintiff's side of the road while overtaking PW1 and held the defendant 100% liable in the circumstances.

Quantum: The Court awarded as follows:

1st plaintiff

b **General Damages:**

Pain and suffering and loss of amenities (Head injury with multiple laceration wounds and soft tissue injury to the chest and abdomen and fracture right upper central incisor tooth with exposed dentine RM10,000

Agreed Special Damages RM2,399

c **2nd plaintiff**

General Damages:

(i) Closed comminuted fracture of right humerus with slight lateral curvature and deformity with restriction of shoulder movement RM 7,000.00

d (ii) Lack of full extension of right elbow RM 3,500.00

(iii) Closed comminuted trochanteric fracture of left femur with 1cm shortening and with stiffness of the hip resulting in a limp as well as, inability to squat RM22,000.00

e (iv) Chip fracture base of proximal phalange left index finger involving articular surface RM 4,500.00

Pain and suffering and loss of amenities (with overlapping) RM33,300.00

Agreed Special Damages RM 1,990.80

3rd plaintiff:

f **General Damages:**

(i) two lacerations over chin 3cm and 2cm a deep laceration over medial aspect of right thigh about 3cm and 4cm and noticeable scars in lower limbs RM 8,000.00

(ii) Fracture left femur with 1cm shortening and with residual disabilities RM22,000.00

g (iii) Closed comminuted fracture of right lateral malleolus RM 7,000.00

(iv) two fractured teeth RM 2,000.00

Pain and suffering and loss of amenities (with overlapping) RM35,100.00

Agreed Special Damage RM14,136.50

h **4th plaintiff** as administratrix of the estate of her son, deceased

Agreed General Damages RM 5,000

Agreed Special Damages RM 5,914

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Counterclaim of defendant:

In view of the finding of liability wholly against the defendant his counterclaim was dismissed with costs. However, the Court would have awarded as follows:

General Damages:

(i) Fracture dislocation of right ankle	RM12,000	
(ii) Fracture of left humerus	RM 5,500	
(iii) Fracture of shaft of right ulna	RM17,000	
(iv) Fracture of lower pole of right patella	RM10,000	
(v) Fracture of medical condyle of left femur with two operations	RM20,000	
Pain and suffering (with overlapping), the award would be	RM50,800	

Earning Capacity:

1. The Court was of the view that an award for loss of earning capacity should only be made if there was a real or substantial risk that the person concerned would lose his present employment at sometime before the estimated end of his working life.

2. In the Court's view, this was not a proper case for an award for loss of earning capacity as there was no evidence to suggest that by concentrating on his medical practice at the clinics alone, the defendant would be losing out on his earnings on the gynaecological operations.

Interest at 4% per annum on Special Damages from date of accident on 30 May 1984 to date of judgment on 1 February 1989 and 8% per annum on General Damages, except future losses, from date of service of writ to the date of judgment .

[Costs to be taxed. Plaintiffs' claim on general and special damages allowed with interest and costs. Defendant's counterclaim dismissed with costs. Defendant found 100% liable.]

Cases referred to:

Mahat bin Abdul Majid & Anor. v. Lau Kui & Anor. [1988] 1 CLJ (Rep) 749
Chai Kah Sim v. Ishak bin Saad [1986] CLJ (Rep) 80
Goh Beng Seng v. Dol bin Dolah [1970] 2 MLJ 95
Foong Nan v. Sagadevan [1971] 2 MLJ 24
Mat Desa bin Salleh v. Ang Hock Lee & Anor. [1979] 1 MLJ 241
Yahaya bin Mat & Anor v. Abdul Rahman bin Abu [1982] CLJ (Rep) 363
Moeliker v. A. Reyrolle & Co. Ltd. [1977] 1 All ER 9

For the plaintiffs - S.N. Leow; M/s. S.N. Leow & Co. & H.R. Sankey; M/s. H.R. Sankey & Co.

For the defendant - S.S. Muker; M/s. Lovelace and Hastings

JUDGMENT

Abdul Malek Ahmad J:

As a result of the collision on 30 May 1984 at about 4 p.m. between motor-car WAK 820 driven by the defendant in a southerly direction and that driven by the plaintiff in Civil Suit 542/85 (hereinafter "the 3rd plaintiff") from the opposite direction, the plaintiffs in Civil Suit 541/85 (hereinafter "the 1st and 2nd plaintiffs"), who were the wife and father-in-law of the 3rd plaintiff respectively and passengers in the 3rd plaintiff's car, and the 3rd plaintiff,

a sustained injuries. The 1st plaintiff is also bringing the action as administratrix of the estate of her son (hereinafter “the 4th plaintiff”) in Civil Suit 25-408-86 who died as a result of that tragic accident. At the outset, Counsel for both parties had agreed to proceed with the hearing on liability alone and to sort out the problem of quantum at a later stage.

b PW1 had told the Court that he was travelling from Ipoh to Kuala Lumpur on his motor-cycle WAU 114 at the relevant time when at the 49½ milestone Bidor-Sungkai road a Volvo motor-car had overtaken him and collided with an oncoming vehicle before completing the overtaking and then colliding into his motor-cycle after spinning around. PW1 added that he was not able to avoid the accident and maintained that it was the defendant’s car which had overtaken him which had encroached onto the other side of the road resulting in the accident. Under cross-examination he stated that before the accident, he was travelling two feet from the left edge of the road and could see 60 feet ahead of him. There were no vehicles either

c in his same direction or coming from opposite. Only when the defendant’s car proceeded to overtake him had he seen the oncoming car 30 feet ahead. He also stated that when the collision took place between the two motor-cars, the defendant’s car had completed its overtaking but on overtaking it had encroached onto the other side of the road. He denied seeing the oncoming motor-car overtaking any vehicle.

d The 3rd plaintiff (PW2) gave evidence that before the accident there was a truck in front of his vehicle. After the truck had passed the Volvo (the defendant’s car) and the motor-cycle (ridden by PW1), he saw the Volvo encroaching onto his side about two feet in overtaking the motor-cycle and this resulted in the collision with his car after which he had lost consciousness. He denied that it was he who had encroached onto the other side of the road and that the collision was on the defendant’s side of the road. Under further cross-examination, PW2 was not able to estimate the distance between his car and that of the defendant’s just before it encroached onto his path as it happened so far. He therefore had no time to avoid the collision.

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The defendant (DW1) testified that at the relevant place and time he saw the oncoming vehicle overtake another oncoming vehicle, encroached onto his path and despite his swerving to the left to avoid the collision, the accident took place. DW1 denied overtaking any vehicle and encroaching onto the other side of the road before the collision. He also said that he was not aware of PW1’s presence and, because he lost consciousness after the accident, could not say whether the sketch plan was correct.

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DW1 called two witnesses to support his testimony. The first was a businessman (DW2) who was driving from Ipoh to Kuala Lumpur and who passed that particular stretch just after the accident. He had seen the 3rd plaintiff’s car on the other side of the road facing Ipoh but not in the position it was in the sketch plan. Despite objections from Counsel for the plaintiffs, I had admitted his evidence on this point. DW2 also said that there was a motor-cycle on the grass verge and although at first he said he did not see any other vehicle, he had subsequently stated that he had seen the defendant’s Volvo with its four wheels in the air in the same position it was in the sketch plan.

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h DW2 had first gone to assist the occupants of the 3rd plaintiff’s car but when told there were people trapped in the Volvo he had gone to the other car. As the doors were all locked, he had broken the door screen with a brick or a stone. The passengers could still not come out but with the assistance of other passersby, he had forced open the front passenger door and got the defendant’s wife out first. Subsequently, they managed to get the defendant out.

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Under cross-examination, DW2 could not explain how the 3rd plaintiff's car had moved while he was assisting the defendant but admitted that when the police arrived he could not remember where the 3rd plaintiff's car was. Before he left the scene, he said that the car was in its original position but when he left he did not look to see where it was. DW2 also said that he was at the scene for about two hours. By its original position, he said he meant that it was nearer to the centre of the road. *a*

Despite DW2's allegation that the 3rd plaintiffs car had been moved, I was of the considered view that both positions were actually totally on the 3rd plaintiffs side of the road although DW2 had stated that the original position was nearer to the centre of the road. Since no police witnesses were called as the sketch plan had been agreed to as regards the position of the vehicles at the time drawn by the relevant police investigating officer, I would only deduce that it could have been moved nearer to the side to allow traffic to pass as the scene was on the normally busy trunk road from Kuala Lumpur to Ipoh. *b*

The other witness for the defendant (DW3) was an insurance agent who also happened to pass just after the accident but who was travelling from Kuala Lumpur to Penang. He had seen a truck with soldiers getting down and a car in the centre of the road. There was someone directing traffic. He also stated that the car was more to the centre of the road and not as in the sketch plan and he had to cut to the right to continue his journey. He did not stop but on reading in the Star newspaper the next day and finding the defendant, who was a family acquaintance as one of the drivers involved, he had subsequently told the defendant what he had seen. Upon examination by the Court, he agreed that this said car was wholly on the left side of the road although near to the centre white line. *c*

The matter was then adjourned at the request of Counsel for them to sort out the quantum. After two adjournments, Counsel for both parties informed the Court that they had agreed to special damages for the 1st plaintiff at RM2,399, for the 2nd plaintiff at RM1,990.80 sen, for the 3rd plaintiff at RM14,136.50 sen and for the fourth plaintiff at RM5,914. For the 4th plaintiff they had also agreed to general damages of RM5,000. *d*

As regards the defendant's counterclaim, the parties had agreed to item (c) of special damages at RM4,299.48 sen and that item (d) could go towards costs. Item (a) had also been agreed at RM250. Item (b) had accordingly been abandoned. *e*

What was left in issue therefore was the question of liability, the defendant's counterclaim for loss of earning capacity and the 1st, 2nd and 3rd plaintiffs' claims for general damages. Further evidence was then adduced from the defendant as regards his loss of earning capacity. *f*

According to the defendant, as a private medical practitioner, he was running two clinics in Kuala Lumpur at Sungei Besi and Cheras respectively. As a result of the accident, he was unable to work for about six months and had to lease out the Cheras clinic. He was at the same time honorary medical officer at the Chinese Maternity hospital in Pudu, Kuala Lumpur. In that position, he was allowed to have his private patients come for their deliveries and minor surgical gynaecological operations at the said hospital apart from conducting them for the hospital's patients as well. He was, however, unable to do these after the accident as when he was about to resume normal work again after six months, he had sustained a fracture again on his right forearm when he tried to use a bit of force for an operation. In consequence, he had lost about RM1,000 to RM2,000 a month which was the income he used to get from this aspect of his practice. *g*

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- a** As regards liability, the Court was faced with two contradicting versions where each party had naturally blamed the other for the accident. With regards to the plaintiffs' version that it was the defendant who had encroached onto their side learned Counsel for the defendant submitted that PW1, who alleged that the defendant's car had overtaken his motor-cycle and encroached onto the other side before colliding with the plaintiffs' car, had not mentioned this fact in his police report. Further, he argued that the 3rd plaintiff was not able to give
- b** the distance between his car and the defendant's car at the time of the encroachment. Moreover, Counsel was of the view that since both DW2 and DW3 had testified that the 3rd plaintiff's car was nearer to the centre of the road as compared to the position in the sketch plan and since the point of impact could not be established, the collision must have taken place somewhere in the middle of the road and consequently that both parties were equally to blame.
- c** Counsel for the plaintiffs had argued that the defendant was wholly to blame for the accident since it was he who had encroached onto the path of the plaintiffs' car while in the process of overtaking PW1's motor-cycle. The position of the glass splinters, he added, on the plaintiffs' side of the road strengthens the version of the plaintiffs.
- d** It is necessary at this juncture to review the testimony of PW1. Although he was a party to the accident, he is not a party to these proceedings between the drivers of the other two cars involved in that accident. I had no reason to disbelieve him, having seen and heard him, and would in the circumstances accept the fact that his motor-cycle was overtaken by the defendant's motor-car, which encroached onto the plaintiff's side in doing so, before the collision between the cars driven by the defendant and the 3rd plaintiff. As against this scenario, it is certainly unacceptable to the Court, and I would find it very improbable, that
- e** the defendant could deny that he had overtaken PW1 and encroached onto the other side. The fact that the defendant categorically denied the presence of PW1 only supports the contention that he was not paying proper attention or was not giving the actual version of the incident.
- f** This finding has been considered with the fact that the road at the stretch is only about twenty feet wide and just about enough for vehicles travelling in single file from opposite directions. The photographs also show that both vehicles were substantially damaged and the glass pieces would have come from both the screens and the lights. Although earlier case authorities suggest that the position of the vehicles after the accident do not afford any due to their respective positions immediately before or at the moment of collision (see *Foong Nan v. Sagadevan* [1971] 2 MLJ 24) and that broken glass pieces from a headlamp would fall at the point of impact and that glass pieces from a windscreen would fall at the point where they are found after the impact wherever the impact would be (see *Mat Desa bin Salleh v. Ang Hock Lee & Anor.* [1979] 1 MLJ 241 and *Yahaya bin Mat & Anor. v. Abdul Rahman bin Abu* [1982] CLJ (Rep) 363 the sketch plan in this case shows that glass splinters were substantially if not all on the 3rd plaintiff's side of the road and over a wide area. Therefore, irrespective of whether the glass was from the screens or the lights and the Court is of the view that it was from both, the probability is that the impact was on the 3rd
- g** plaintiff's side of the road.
- h** Learned Counsel for the plaintiffs had submitted that in view of the defendant's delayed police report he had had time to fabricate his story but the Court would disregard this in view that nothing was asked on this point when the defendant was in the witness box.
- i**

Nevertheless, on the careful considerations of the testimony, photographs and sketch plan, the Court would find that it was the defendant who had encroached onto the 3rd plaintiff's side of the road while overtaking PW1 and hold him 100% liable in the circumstances. *a*

As regards quantum, the 1st plaintiff had suffered a head injury with multiple laceration wounds and soft tissue injury to the chest and abdomen and a fractured right upper central incisor tooth with exposed dentine. Learned Counsel for the defendant suggested a sum of RM5,000 for all the injuries. The medical review dated 15 October 1984 stated that clinically the 1st plaintiff was well, fully conscious and rational with no neurological deficit. There was no abnormality of the abdomen or chest, no tenderness and the wounds were noted to have healed. A second review dated 25 October 1984 certified that her tiredness, breathlessness and palpitations were attributable to an anxiety state due to the accident where she was involved and where her son had passed away. She was otherwise normal clinically and there was no evidence of thyroid disease. In the circumstances, I would hold that an award of RM10,000 was fair and adequate for the 1st plaintiff's pain and suffering and loss of amenities. *b*

The 2nd plaintiff sustained a 2cm laceration at the left post-auricular region, a closed comminuted fracture shaft of right humerus, a closed comminuted trochanteric fracture of the left femur and a chip fracture base of proximal phalange left index finger involving the articular surface. According to the specialist's medical report dated 7 January 1988, the 2nd plaintiff was seen on 7 December 1987 as he had complained of inability to fully abduct the right shoulder and to straighten the right elbow, weakness of the left leg, inability to squat and inability to fully flex the left hip. Otherwise, all the fractures had healed without any complications. *d*

On examination, it was found that his right arm showed some deformity of the humerus with slight lateral curvature and his left leg showed a 1cm true shortening. The residual disabilities which were not likely to resolve any further were deformity in the right humerus with restriction of shoulder movement, lack of full extension of the right elbow and shortening of the left leg with stiffness of the hip resulting in a limp as well as inability to squat. *e*

For the residual disabilities namely the deformity in the right humerus with restriction of shoulder movement, the Court would make an award of RM7,000, for the lack of full extension of the right elbow RM3,500 and for the shortening of the left leg with stiffness of the hip resulting in a limp as well as inability to squat, the Court is of the view that a fair and reasonable award would be RM22,000. These figures are based on decided cases for similar injuries. Taking into account the chip fracture of the proximal phalange of the left index finger for which the award would be RM4,500 and overlapping, the Court would make an award for RM33,300 general damages for the 2nd plaintiff. *f*

The injuries found on the 3rd plaintiff were two lacerations over the chin 3cm and 2cm respectively, a deep laceration over the medial aspect of the right thigh with muscle laceration, two other lacerations over the right thigh about 3cm and 4cm respectively, a closed comminuted fracture of the right lateral malleolus and two fractured teeth. The specialist's report on his injuries dated 7 January 1986 detailed the extensive treatment the 3rd plaintiff had undergone and that the two fractures to the left femur and right ankle had healed after the intramedullary nail had been removed from the former and the screw from the latter. *g*

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- a* However, there were residual disabilities in the limitation of range of motion in the right ankle associated with pain and 1cm leg length discrepancy. The 3rd plaintiff had also suffered in terms of appearance due to the number of large very noticeable scars in his lower limbs to the extent that he had not been wearing short pants since and had also not been able to go swimming. He had since had crowns put to the two injured teeth.
- b* For the lacerations and residual scars, the Court would make an award, again guided by recent decided cases, of RM8,000. For the shortening and fracture of the femur an award of RM22,000 would be a fair and adequate figure and for fracture of the malleolus RM7,000 would be a reasonable amount. As for the teeth, RM2,000 would suffice and with overlapping, I would make an award of RM31,500 for general damages for the 3rd plaintiff.
- c* As regards the counterclaim by the defendant in Civil Suit 542/85, it is relevant to refer to the specialist's report dated 17 June 1985 which reads:
- X-rays taken in Ipoh General Hospital showed fracture dislocation of the right ankle, fracture of the left humerus, fracture of the shaft of the right ulna, fracture of the lower pole of the right patella and fracture of the medial condyle of the left femur.
- d* He had emergency surgery in Ipoh General Hospital where open reduction and internal fixation were done for the right ankle. The lower pole of the fractured left patella was excised and torn ligaments repaired. His right forearm was treated in a long arm plaster of Paris cast and he had plaster of Paris applied to both his legs. The left shoulder was strapped.
- On 11 June 1984, open reduction and plating of the right ulna, open reduction and plating of the left humerus and open reduction and screw fixation of the left medial condyle of the femur were done in this hospital.
- e* His post-operative recovery was uneventful and he was discharged on 15 June 1984. He was then followed up in the clinic. He was started on crutches on 6 July 1984 and was advised full weight-bearing on both legs from 20 July 1984.
- When seen on 10 September 1984, he complained of pains over the right ulna with swelling. X-rays showed a fracture of the metal plate with angulation of the ulna.
- f* He was re-admitted and on 19 September 1984, the plate and screws were removed and replaced with an intramedullary rush nail.
- His subsequent progress was satisfactory and when reviewed on 11 January 1985, he had recovered almost full range of movements in the right elbow, the left shoulder and right ankle. Flexion in the left knee was restricted to 110 degrees.
- He was seen again on 11 March 1985 with angulation in the left humerus. X-rays showed some loosening of screws and he was advised to avoid stress.
- g* Subsequent reviews on 4 April 1985 and 3 May 1985 showed the fracture in the left humerus to be uniting. He also regained movements in the left knee.
- h* In the circumstances, I would make an award of RM12,000 for his fracture dislocation of his right ankle. For the fracture of the left humerus, the Court would make an award of RM5,500. These two awards need to be distinguished from that made to the 3rd plaintiff for fracture of the malleolus as there was no dislocation there and that made to the 2nd plaintiff for fracture of the humerus with restriction on the shoulder movement. For the fracture to the ulna and the fracture of the patella RM17,000 and RM10,000 would be fair and adequate. For the fracture of the medial condyle of the left femur with two operations, an award of RM20,000 would suffice since there was no shortening unlike the awards for the 2nd and 3rd plaintiffs.
- i* With overlapping, the award for the defendant in his counterclaim would be RM58,050.

As to loss of earning capacity of the defendant by reason of the injuries to his arm which had disabled him from performing operations, it is not challenged that he would lose about RM1,500 a month. Learned Counsel for the defendant had asked for a global sum of RM12,000 as no mathematical calculations can be utilised. Learned Counsel for the plaintiffs had argued that since the claim for loss of future earnings had been abandoned, the question of loss of earning capacity does not arise. Following *Moeliker v. A. Reyrolle & Co. Ltd.* [1977] 1 AER 9, I was of the view that an award for loss of earning capacity should only be made if there was a real or substantial risk that the person concerned would lose his present employment at some time before the estimated end of his working life. Here the defendant contends that in view of the fracture to his ulna, he would not be able to continue performing his gynaecological operations which would cost him an average RM1,500 a month but he does not state that his medical practice in general would be affected. The time spent on operations could easily be diverted to his general practice. To my mind, this was not a proper case for an award for loss of earning capacity as there is no evidence to suggest that by concentrating on his medical practice at the clinics alone, the defendant would be losing out on his earnings on the operations.

In the event, I would hold the defendant 100% liable for the accident and make the following awards:

1st plaintiff:

General Damages:

Pain and suffering and loss of amenities	RM10,000
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(Head injury with multiple laceration wounds and soft tissue injury to the chest and abdomen and fractured right upper central incisor tooth with exposed dentine)

Special Damages (agreed)	RM 2,399
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2nd plaintiff:

General Damages:

Pain and suffering and loss of amenities (with overlapping)	RM33,300
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(Deformity in the right humerus with restriction of shoulder movement	RM 7,000
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lack of full extension right elbow	RM 3,500
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shortening of left leg with stiffness of hip resulting in limp as well as inability to squat	RM22,000
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chip fracture of the proximal phalange of left index finger	RM 4,500
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Special Damages: (agreed)	RM 1,990.80 sen
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3rd plaintiff:

General Damages:

Pain and suffering and loss of amenities (with overlapping)	RM35,100
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lacerations and residual scars	RM 8,000
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shortening and fracture of femur	RM22,000
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| a | fracture of the malleolus | RM 7,000 |
| | injuries to teeth | RM 2,000) |
| | Special Damages: (agreed) | RM14,136.50 sen |
| | <i>4th plaintiff:</i> | |
| b | General Damages: (agreed) | RM 5,000 |
| | Special Damages: (agreed) | RM 5,914 |
| | In view of the finding of liability against the defendant, his counterclaim was dismissed with costs. The awards would have been as follows: | |
| | <i>Defendant:</i> | |
| c | General Damages: (with overlapping) | RM50,080 |
| | fracture dislocation of right ankle | RM12,000 |
| | fracture of left humerus | RM 5,500 |
| | fracture of ulna | RM17,000 |
| d | fracture of patella | RM10,000 |
| | fracture of the medial condyle of left femur with two operations | RM20,000 |
| | loss of earning capacity | no award |
| | Special Damages: | |
| e | (a) RM250 (agreed) | |
| | (b) abandoned | |
| | (c) RM4,299.48 sen (agreed) | |
| | (d) paid towards costs. | |
| f | Interest will be at 4% per annum on Special Damages from the date of accident to the date of judgment and 8% per annum on General Damages, except future losses, from the date of service of writ to the date of judgment. Costs to be taxed accordingly. | |

Also found at [1989] 1 CLJ 985

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